



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/661,801

09/12/2003

Heino Deussen

030473

8360

23464 7590 01/19/2007  
BUCHANAN INGERSOLL & ROONEY PC  
P.O. BOX 1404  
ALEXANDRIA, VA 22313-1404

EXAMINER

NGO, LIEN M

ART UNIT

PAPER NUMBER

3754

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
--	-----------	---------------

3 MONTHS

01/19/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/661,801

Applicant(s)

DEUSSEN, HEINO

Examiner

LIEN TM NGO

Art Unit

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2006.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,4,6,8-15,17-20,23,24,26-30 and 33-38 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1,4,6,8-15,17-20,23,24,26-30 and 33-38 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☒ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Priority***

1. Acknowledgment is made of applicant's claim for foreign priority based on applications filed in Germany on 2/23/02 and 3/13/01. It is noted, however, that applicant has not filed certified copies of the Germany applications as required by 35 U.S.C. 119(b).

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 4, 6, 8, 10-15, 17, 19, 20, 23, 24, 26 and 28-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Sattler (DE 1063755). Sattler discloses, in figs. 1, a container comprising a wall with an interior surface, and a neck for receiving a dropper cap 2; the cap comprising a discharge channel 6 having an intake opening, a restrictor device 4 being disposed upstream of the intake opening and the dropper cap having a bottom wall (the flange disposed on the opening surface of the container) and a chamber wall 7 that define an intermediate chamber 4 located between the restrictor device and the intake opening. The restrictor device has a partition wall 7 attached to the interior of the wall, and at least one passage opening 8 whose cross section is smaller than the cross section of the intake opening of the discharge channel; wherein the restrictor device has at least one passage opening 8 connecting the intermediate

Art Unit: 3754

chamber and the container, the at least one passage having a diameter smaller than the diameter of the intake opening and the at least one passage being sized and positioned relative to the intake opening so that immediate transfer of inflowing liquid from the at least one passage to the intake opening is capable to be prevented and liquid to be dispensed enters the discharge channel at a selected pressure independent of any pressure exerted on the liquids in the container.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 9, 18 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sattler in view of Mackal (3,189,233).

Sattler does not teach the passage opening of the restrictor device being offset to the intake opening.

Mackal teaches, in figs. 1 and 2, a restrictor device 26 having a plurality of passage openings 27 being offset to an intake opening 24.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the restriction device in the Sattler invention with a plurality passage openings offset to the intake opening, in view teaching of Fontana, in order to facilitate of flowing of the liquid through the openings.

5. Claims 33-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sattler in view of Vallet Mas et al. (5,588,559).

Vallet Mas et al. teach, in fig. 3, a drop cap comprising a discharge channel opening having a diameter being larger than a diameter of an intake opening. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the drop cap of Sattler with a discharge channel opening having a diameter being larger than a diameter of an intake opening, as taught by Vallet Mas et al, in order to enhance the restriction flowing of liquid as dispensing.

#### ***Response to Arguments***

6. Applicant's arguments filed 11/20/06 have been fully considered but they are not persuasive as pointed out in the rejections above.

#### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LIEN TM NGO whose telephone number is 571-272-4545. The examiner can normally be reached on Monday through Friday from 8:30 AM -6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, KEVIN SHAVER can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LIEN TM NGO  
Primary Examiner  
Art Unit 3754

January 9, 2007

